

Street Law Mock Trials



Brooks v. Lawrence & the Metro City Police Department

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Mock Trial Materials for the
Thirty-Fourth Annual
Georgetown University Law Center and
District of Columbia Public High Schools
Street Law Mock Trial

Brooks
(Plaintiff)

v.

Lawrence & the Metro City
Police Department (MCPD)
(Defendants)

Prepared by

Alycia M. Guichard, Clinical Fellow
in conjunction with
Richard L. Roe, Program Director and Professor of Law
Stephanie Taylor, Research Assistant,
Roxana Bargo, Research Assistant, and
Takeisha Roach, Executive Assistant

DC Street Law Clinic
Georgetown University Law Center
111 F Street, NW, Suite 128
Washington, D.C. 20001
(202) 662-9615

streetlaw@law.georgetown.edu

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*Statement of Facts
&
Witnesses*

Statement of Facts¹

On March 15, 2005, at approximately 10:15 p.m., eight police officers arrived on the scene of a local Shop-All store in Metro City and arrested Kim/Kevin Brooks. The police charged Brooks with trespassing and disorderly conduct.

Brooks is a 19-year-old high school student who plans to graduate from Tilden High School in June 2006 with high honors. In 2005, Brooks participated in Tilden's Street Law program. During the competition, Brooks won a certificate for best lawyer. In the fall, Brooks plans to attend New Castle University to study political science. After college, Brooks hopes to attend law school and become a lawyer.

Brooks stopped at Shop-All near closing time to make a return and purchase some last minute items before leaving on a 6 a.m. flight to Miami the next day. Brooks planned to attend his/her older sister's wedding. Brooks was in the checkout line before closing time but left it to get an additional item. The security guard at Shop-All, Officer Lawrence, informed Brooks it was closing time and told Brooks to go to the register. Lawrence is a police officer for Metro City, who also works as a security guard for Shop-All when off duty. Brooks continued to shop. At the register, Lawrence ordered Brooks to leave the store without completing the purchase. Brooks and Lawrence got into an argument and scuffle, which resulted in Brooks' detention and arrest. The arresting officers did not witness or question Brooks about the incident.

¹ Assume that the facts found in the Statement of Facts to be true.

Brooks spent about five and a half hours in police custody where s/he was searched, fingerprinted, and escorted to the courthouse across the street with shackles. After Brooks was released, s/he spent three to four more hours in the Metro City hospital emergency room for pain and cuts and bruises on his/her body from the incident.

The criminal charges against Brooks were dismissed after Brooks agreed to do 30 hours of community service. Brooks brought a civil suit against Lawrence, Shop-All and the Metro City Police Department for battery, false arrest and intentional infliction of emotional distress.

Additional Stipulations

The parties stipulate to the authenticity and admissibility of:

1. The Metro City police report from the incident
2. Brooks' cell phone bill
3. Brooks' 911 call transcript
4. Metro City Emergency Room Diagnosis
5. Lawrence's MCPD personnel record
6. Excerpts from Shop-All Superstore cashier handbook
7. Excerpts from Shop-All Superstore security guard handbook

The parties reserve the right to dispute any other legal or factual conclusions based on these items and to make objections to these items based on other evidentiary issues.

Claims and Defenses

Brooks claims that s/he was properly in the Shop-All store when approached and later detained by Lawrence. Brooks also claims that Lawrence intentionally used excessive and unjustifiable force and detained Brooks unnecessarily and without adequate justification. Brooks furthermore claims that Lawrence acted with the purpose and result of embarrassing and humiliating him/her. Brooks claims that Shop-All is liable for the acts of Lawrence, its employee in the course of Lawrence's employment. Additionally, Brooks claims that the Metro City Police Department detained him/her without justification. Brooks also claims that the police subjected him/her to unjustified restraints, both excessively and for the purpose of embarrassing and humiliating him/her.

Officer Lawrence defends on the ground that Brooks' refusal to follow instructions to leave the store justified putting Brooks under restraint and detaining Brooks until the police arrived. Lawrence further defends on the ground that any physical or psychological harm or damages Brooks may have suffered were caused by his/her own offensive conduct and his/her resistance to Lawrence's lawful and proper actions.

The Metro City Police Department defends on the ground that the officers had probable cause to arrest Brooks based on Lawrence's statements to them. Moreover, the Police Department defends on the

ground that the treatment of Brooks was within the bounds of a lawful arrest.

Shop-All, a party in the original lawsuit, settled with Brooks for an undisclosed amount.

Relief Requested

Brooks is asking the court to make a finding of battery, false arrest and intentional infliction of emotional distress against Officer Lawrence and the Metro City Police Department. Brooks is requesting damages of \$100,000 for pain and suffering. Additionally, Brooks is also requesting additional police training for Officer Lawrence.

Officer Lawrence and the Metro City Police Department are asking the court to find that there was no battery, false arrest or intentional infliction of emotional distress on their part.

Witnesses

Witnesses for the Plaintiff

Kim/Kevin Brooks

Plaintiff

Roxy/Roy Derecha

Shop-All Cashier

Dr. Marcus/Marsha E. Taylor

School Psychologist

Witnesses for the Defendant

Officer Milton/Michelle Lawrence

Off Duty Police Officer & Shop-All Security Guard

Shawn/Stacy Camp

Shop-All Assistant Manager

Chief of Police Maria/Mark Rodriguez

Metro City Police Department Chief of Police

*Plaintiff's
Witness Statements*

Kim/Kevin Brooks

My name is Kim/Kevin Brooks. I am nineteen (19) years old, and I will be graduating from Tilden High School in June. I will also be attending New Castle University to study political science in September. I have really enjoyed my time at Tilden and participated in many activities, including the Street Law Program, which is where I learned a lot about the law and my rights. School has always been important to me, and I have worked hard to be an honors student. I know working hard helped me get into a good college, and I hope later on, it will help me to get into law school.

On March 15, 2005, I hurried to Shop-All before they closed. I needed to return a scarf I got for a gift (it was from my grandma, and I love her and all, but it was ugly), and I had to pick up a few things because the next day I was leaving early on a flight to go to Tia's wedding. Tia is my older sister. She finally met Darnell, the man of her dreams. I was excited for her and could not wait to go to the wedding. I went into Shop-All; I returned the scarf and shopped for a bit. Just before closing, I went to the only register that was open to pay for my things, and then suddenly I realized I had forgotten to pick up some deodorant. I asked the cashier if I could go back to get it. I can't remember exactly what she said, but I do remember her telling me that the deodorant was in aisle one. So I left my cart with my school planner and other items at the register and walked to aisle one. I hurried back since I knew the store was closing—I think I was the last customer in the store.

As I walked to the aisle, this security guard came up to me and told me that the store was closed and that I needed to leave immediately. I later

learned this was Officer Lawrence. I tried to explain to Lawrence that my stuff was already at the register and that I just needed this one last important item, which I had forgotten and which the cashier knew I went back to get.

Lawrence's response was quite rude. Lawrence said, "I don't care what the cashier said. I'm the security here, and you have to leave." I needed the deodorant, and I was already in aisle one, so I was like, whatever. I just ignored him/her, grabbed a deodorant and walked to the register. I wasn't paying attention to what the guard was saying because I was in a hurry, but I do remember Lawrence saying under his/her breath, "I'll fix you."

I still wasn't paying much attention to the security guard and what s/he said once I got back to the register. At that point, I was just going through the list in my head to make sure I had everything before I went on the trip the next day. I figured it would be hard to get anything before my early morning flight if I forgot it that night. By this point, the last two customers were getting ready to walk out the store, and I put the deodorant, along with the stuff I had left at the register earlier, on the conveyor belt.

At the very same time, the security guard came to the lane I was in and told me that I couldn't pay for my items because I had to leave the store immediately. By that time, I was just ready to go home, and I was frustrated that s/he kept on bothering me. So I turned to him/her and yelled, "Look, the cashier knew I went back to get the deodorant. I don't know what your problem is!" Lawrence then got really close to my face and told me again that I needed to leave. Lawrence said, "If you don't leave, I am going to have to lock you up." I could not believe my ears. I asked him/her, "What are you going to lock me up

for? I haven't done anything." I started to get scared because s/he was so close to me and sounded threatening. I began to believe then that s/he might actually do something to me.

By then, the last two customers were outside, but I could still see them through the glass door. They both looked back worried, and I wished that they could help me. They even tried to get back inside, but they were locked out from the inside. I was very scared. So I turned around, told the security guard that I was going to call the police, took my phone out and dialed 911. The dispatcher answered the call. I explained to her that a security guard at Shop-All was threatening me and that I was afraid s/he was going to do something to me. I asked the dispatcher if she could please send the police right away. Suddenly the security guard grabbed me, threw me on the conveyor belt, and tried to put handcuffs on me. I became very scared then. Nothing like this had ever happened to me before. I didn't know what to do. All I knew is that I hadn't done anything wrong and that s/he was hurting me. I tried to push the guard off me so I could get off the conveyor belt. I managed to lift myself up a bit from the belt, but s/he smashed me into a glass case, still trying to put the handcuffs on.

At this point, both fear and anger were running through my mind. I was crying and yelling and just more upset than I can remember ever having been before. After Lawrence smashed me into the glass, I thought I might have a better chance of getting him/her off of me because we were then standing upright. Lawrence was much stronger than I was and pushed me back onto the

conveyor belt. Lawrence put the handcuffs on me. All that time, I was in pain and screaming.

When the police arrived, I started to feel a little relieved. I thought they would get the security guard to take the handcuffs off of me and let me go home. I was wrong.

There were a lot of police officers surrounding me. The security guard said I should be arrested for trespassing and disorderly conduct. Then they arrested me, without hearing the story of what actually happened. I couldn't believe it. They put me in the car, even though I was crying and trying to tell them what happened. I also tried to let them know that my planner was still in the cart and that I had been bruised and cut, especially around my wrists where the security guard had put the handcuffs on too tightly and on my shoulder when the security guard threw me on the conveyor belt. They could have cared less.

They took me to the station, and I ended up being charged with trespassing and disorderly conduct. The officers at the station were very rude. They thought that I had been shoplifting and started to tease me because I was crying. My parents were worried sick about me. They were in Florida already for Tia's wedding. I wasn't able to leave with them for Florida the day before because I had school. I had to serve an in-school suspension for talking back to one of my teachers. My aunt took me to the hospital to get my scratches and bruises examined. The doctor's report showed that I had sprained my left wrist and that there was a muscular strain to my right knee and left shoulder. The doctor was really nice to me and could not believe that this happened to me. He gave me a brace for my wrist to alleviate some of the pain.

When I went to court for the criminal charges against me, the D.A. offered to dismiss the case if I agreed to do community service. It was the only time I had ever been arrested for anything in my life. Although I didn't think I did anything wrong, my lawyer said I should take the community service instead of going to trial. I wanted to go to trial because I knew I was innocent and felt that I was falsely charged. But, considering all the hassles that I would have to go through at trial, I decided that it would just be easier to agree to the D.A.'s offer.

I still can't believe this whole thing happened to me. I think that security guard abused his/her power and was very violent. You only see things like that happen in the movies, but not to me, not a teenager who just needed to buy a few things from Shop-All!

Kim/Kevin Brooks

Kim/Kevin Brooks

Roxy/Roy Derecha

My name is Roxy/Roy Derecha. I'm a cashier at the Shop-All on the Southeast side of town. I have been working there for about six years now. I started out as just a regular cashier and then, because I am such a hard worker, became the head cashier just after my first year. I work mainly afternoons and evenings, although every once in awhile, if they don't have enough people in the morning, I will work the morning shift as well. I enjoy my job, but I really would like to be promoted to an assistant manager. As assistant manager, I would have more responsibility, better pay, and better hours. I've been head cashier for five years now, and I think I am more than qualified for assistant manager. Over the past two years, several assistant manager positions have opened up. And I applied again and again for the job. But each time they hired someone else for the job.

On the night March 15, 2005, I was the only one working the cash register because I let most of the other cashiers go home early. Business was especially slow that night, so I had no reason to keep everyone there. I remember Officer Lawrence being there on security duty that night. Normally, s/he wears a security guard uniform, but I have never seen her/him with a gun or any other weapon. We rarely have problems at the store, which is good.

It was close to closing time, when a young customer came to my lane. I later found out this was Kim/Kevin Brooks. Anyway, after s/he got to the cash register, Brooks remembered that s/he had forgotten some deodorant and asked what aisle it was in and if s/he could go back and get it. I told Brooks that it was in aisle one but I didn't think s/he had time to go back and get it.

You see, the store was getting ready to close, and as head cashier, I know that Shop-All has very strict policies when it comes to closing. Brooks quickly said, "Aisle one, I'll be back fast, I promise." Brooks left the cart in the lane and, I assume, went back to get the deodorant. As I waited, I kind of zoned out for a bit. It's hard to keep focused so late at night, especially when the place is pretty empty. I think I was daydreaming about going on vacation. I had been working extra hours to save up for a vacation to Jamaica. Two customers, a man and a woman, brought me out of my daydream when they asked me to unlock the inside door and let them out of the store. We lock the doors a few minutes before closing so that no more customers come in that late. Shop-All has written policies about closing, and the manager takes them seriously. I want to do the best job I can, so I just do what s/he says and always lock the door before closing.

Brooks returned with her/his deodorant. S/he started taking the items s/he had left earlier at the register out of the cart and putting them on the conveyor belt. As Brooks was putting the items on the belt, Officer Lawrence came up behind her/him and told Brooks that s/he couldn't buy the items because s/he had to leave the store right then and there. Brooks then turned to Officer Lawrence and said something like, "The cashier knew I went back to get the deodorant. I don't know what your problem is." At this point, Lawrence did something that seemed unusual. Lawrence got really close to the customer's face and told Brooks again that s/he needed to leave. I have heard that Lawrence had a bit of a temper from some of the other employees, but I had never actually seen her/him get angry with anyone. Lawrence seemed like a

decent person, trying to make a living like the rest of us. At first, I thought, maybe Brooks took something, because that was the only logical explanation in my mind for why Lawrence was being so mean to her/him. But then I saw the look on Brooks' face when s/he turned away from him. Brooks looked very upset and took out her/his cell phone to call someone. I assumed s/he dialed 911 because s/he only pressed three buttons on the phone.

Brooks began to tell that person who answered that s/he was being threatened by a security guard and that s/he was afraid that the security guard might do something to her/him. Brooks didn't even get to finish telling whoever it was on the other end what was happening because Officer Lawrence suddenly pushed Brooks onto the conveyor belt and attempted to put handcuffs on her/him. Wow, let me tell you, Brooks put up one heck of a fight! S/he struggled to get free, and then Officer Lawrence slammed Brooks into a glass case full of soda. I stood there shocked. Things got really crazy. The two other customers were still outside by the door looking in and banging on the glass. Honestly, I didn't know what was going on around me. All I could think of was, wow, this looks really bad.

Eventually, I guess because of all the noise Brooks was making, the assistant manager, Shawn/Stacy Camp, came to the front of the store and asked me what was going on. I told Camp what I heard Officer Lawrence say, something about the customer trespassing and being disorderly, and then Camp called 911, too. At this time, I didn't know what I could do! I tried to tell Officer Lawrence that I knew the customer went back for the deodorant and that Lawrence should stop treating the customer in that way. But s/he would

not listen to me. I have never seen Officer Lawrence act like this before. And for what? What did that poor customer do to deserve such horrible treatment? Before I knew it, a bunch of police cars pulled up outside, and about 10 or 12 officers started banging on the glass to enter the store.

Camp let the police in and I thought, ok, well, they will handle this. To my surprise, they arrested Brooks. I thought they would at least let her/him go home. Like I said, I had no idea what the customer did, but I do feel that Officer Lawrence was way out of line the way s/he was handling Brooks. Brooks was sobbing and had a few cuts, and I think I heard her/him say something about how her/his wrists were really hurting. It was just all so bizarre to me. Something really just didn't seem right to me, and I must say, that I really can't imagine that this customer did anything to deserve such treatment. Even if s/he had, I feel it was an abuse of Officer Lawrence's power. S/he didn't even read Brooks his/her rights or anything like that, and I think that is what is supposed to happen when someone is arrested, right? I might be wrong though. All I know about this stuff is what I see on Law and Order. Still, that gut feeling you get, the way Officer Lawrence treated the customer, the way s/he hurt her/him, it just all seemed very wrong.

One more thing. I received a written reprimand in my personnel file because of this incident. Camp said that I violated store policy by allowing Brooks to get back in line after getting the deodorant. I think the reprimand is unfair and may ruin my chances for promotion to assistant manager.

Roxy / Roy Derecha

Roxy/Roy Derecha

Dr. Marcus/Marsha E. Taylor

My name is Dr. Marcus/ Marsha Taylor. I am a psychologist, and work with the Metro City University Counseling and Psychology Services. I also have my own practice, but I have a small, selected group of patients that I see there. Most of my time is spent at the office at Metro City University. My passion lies mainly with helping high school and college age youth cope with the stress of being in school, dealing with family, dealing with pressure, and so on. Sometimes, I think, adults tend to forget how hard it really is to be a young adult, and I don't even think we can grasp how much harder it is in this day and age of rampant drug abuse, STDs, and teen pregnancies.

I was born and raised here in Metro City. I received both of my college and doctorate degrees at Georgia City University. I have two beautiful children and live in Northwest close to Falter Deed Hospital.

My passion since I even began my studies in psychology is in helping the young people. I believe that if I am able to help them while they are young and still developing mentally and emotionally, they will not only grow up to be functioning and well-adjusted members of society, but their chances of succeeding in both school and in the work force are also greatly increased. They will focus more on the task at hand rather than on problems at home or insecurity and self-esteem issues.

I began seeing Kim/ Kevin Brooks on February 2, 2005. The guidance counselor at Tilden High School referred Brooks to me. I see Brooks as a patient every week. I am paid for these consultations by Brooks' insurance plan. I am testifying here today with Brooks' permission. During that first visit at my

office, my initial impression was that this was a very bright and driven young person, but very insecure. Brooks' biggest problem seemed to be that s/he had a hard time adjusting to certain situations. Brooks had explained that when s/he was younger, his/her family moved from place to place because Brooks' father's line of work required the family to do so. Brooks said s/he never really had many friends. Brooks' reasoning behind that was twofold. One, Brooks was never in one place long enough. Two, Brooks would get picked on for being one of the smartest students in the class. It appeared that no matter what school Brooks attended, s/he was in the top of his/her class. Brooks would say that people would call him/her stuck up. Instead of congratulating Brooks when s/he won an award or did well on test, they would call Brooks names and say that they didn't like him/her. Children can be so cruel, as I am sure we all know. Some of us are inherently much more susceptible to such ridicule than others. I believe Brooks is one of those people.

As a result of his/her childhood, Brooks tends to want to please people in higher positions, like teachers. This is one reason why Brooks works hard to get good grades. However, when Brooks receives negative feedback from authority, Brooks sometimes responds with anger and hostility. For instance, in early March 2005, a teacher gave Brooks a low grade on a report that Brooks felt was unjustified. Brooks responded to this perceived criticism from higher authority by yelling and saying abusive things to the teacher. Brooks was brought to the school principal, disciplined, and given in-school suspension for several days.

Throughout our sessions, I discovered that Brooks in general was very sensitive to his/her surroundings, to what people said and did. Brooks said s/he hated going into places with a lot of people because s/he thought people were looking at him/her and judging how s/he looked. This sensitivity, I believe, along with the lack of stability when Brooks was younger, made everyday things just a little harder for Brooks than for most people that age. I diagnosed Brooks with an Adjustment Disorder with depressed mood. However, even with this diagnosis, I found Brooks to be a very delightful young person who will succeed.

Before March 15, 2005, our sessions often focused on Brooks' anxiety in public places, feelings about moving so often, and insecurity and trouble with making and keeping friends. We also focused a lot on the reasons Brooks' father has to travel so much for work. On March 21, Brooks came in looking very different, as if under a lot of pain and anxiety. Brooks' mood was significantly unhappy. Brooks could barely talk to me about what had happened. Once Brooks started talking, s/he also started crying and explained that s/he had been assaulted by an off duty police officer working in Shop-All as a security guard a couple of nights ago. Brooks said that the policeman "threw me around like a rag doll." Brooks complained of pain and bruises, and showed me his/her wrists, which were still visibly swollen and blue. Brooks explained to me that s/he felt humiliated. S/he said s/he was having a very hard time concentrating on school and that throughout the day, s/he would have to get excused to go to the restroom to be alone. Brooks had to do this to keep from breaking down emotionally. Brooks also said that since the

incident, s/he hadn't been able to sleep, and so was extremely tired and distracted throughout the day. Since this incident, Brooks has been very afraid of police officers and security guards.

Over the next few weeks, our sessions mainly focused on the stress related to the assault. After a couple of weeks of seeing little improvement, I encouraged Brooks to see his/her regular doctor. He prescribed Zoloft and sleep medication. Brooks was quite hesitant to take this medication, but after I calmed his/her fears about taking it, Brooks agreed to do so.

This has been a very traumatic experience for Brooks. Based on my many years of experience in the field of psychology and an understanding of Brooks, I would speculate that it is not going to be easy for Brooks to get over this incident.

Dr. Marcus/Marsha E. Taylor

Dr. Marcus/Marsha E. Taylor

*Defendant's
Witness Statements*

Milton/Michelle Lawrence

My name is Milton/Michelle Lawrence, and I am a police officer for the Metro City Police Department. In addition to being an officer on the force, I also work evening shifts as a security guard at Shop-All when I am off duty. I live at 2727 29th Street NW, here in Metro City. I am married with two children.

I've lived in Metro City all my life. After high school, I went to Georgia City University, and I majored in forensic science. After I graduated from Georgia City University in 2000, I joined the Metro City Police Department. I have been working for the Metro City Police Department for the past five years, and I absolutely love my job. I would never think about changing careers. However, with two children and today's cost of living, it's been hard to make ends meet lately. So, about a year ago, I got a second job working as a security guard for Shop-All. A number of friends on the force moonlight as security guards, and they suggested I do the same when I mentioned my financial troubles.

I am usually on patrol during the day shift at the police department from 7 am to 4 pm. After I finish my shift, I go home, have dinner with the family, change clothing, and then go off to Shop-All to work the 7 - 11 pm night shift.

On March 15, 2005, however, the department was short-staffed and they needed me through the afternoon. I had to miss dinner that night and drive directly to Shop-All after my shift. So, I went into work at Shop-All that evening wearing my police uniform and carrying my gun in its holster and my handcuffs on my belt. I took my badge off and left my baton in my car.

My shift that night proceeded as it usually did. Nothing out of the ordinary happened, until closing time, that is. From 7 pm to 9:30 pm, I normally sit in the surveillance room, where I monitor eight television sets transmitting coverage of the store and the parking lot from eight different security cameras positioned on the premises. Sometime before the store closes at 10 pm, I usually leave the surveillance room and do a sweep of the aisles. That is, I walk up and down each aisle, from the back of the store to the front, to ensure that each one is clear and all customers are at the register. Upon direct orders from my manager, if I see anyone in the aisles after the store's closing time, 10 pm, I am to instruct them to immediately leave the store. It was when I was doing my sweep on the night of March 15, 2005, that I encountered a customer in the aisles, later identified as Brooks.

It was 10:00 pm, closing time, when I came across Brooks. Brooks was walking toward the back of the store. I advised Brooks that the store was closed and to discontinue shopping. Brooks responded that the cashier knew s/he was getting a last item that s/he had forgotten to pick up. I said, "I'm just doing my job. Please get in line at checkout." At this point, Brooks got very loud with me, saying that this was ridiculous and who was I to tell him/her what to do. Brooks got very angry and told me to mind my own business. Brooks continued to walk to the rear of the store.

I did a quick check to see if anyone else was still in the store. Every other customer had left. I went back to Brooks and instructed him/her again to leave. Brooks ignored me and continued looking on the shelves. After Brooks finally picked out some deodorant, I followed him/her to the front of the store.

It was now past closing. I knew that the manager wanted the registers closed at 10:00 pm, and it was too late for Brooks to check out. At the registers, I went up to Brooks and told him/her that s/he needed to leave. I also turned to the cashier and said that Brooks no longer had any right to be in the store. Brooks refused to leave the store. I told Brooks that if s/he didn't leave the store, I would have him/her arrested. Brooks screamed, "Arrested for what?" I told Brooks again to leave the store, but instead of leaving, Brooks called the police. I didn't know why Brooks was calling the police. All Brooks needed to do was leave the store. I continued to ask Brooks to leave the store while s/he was on the phone. Then I proceeded to try to physically escort Brooks from Shop-All. That's when Brooks began to resist me.

Brooks was yelling and screaming. In fact, Brooks was yelling and screaming so loudly, s/he caused other employees that were working in the rear of the store to run to the front to see what was going on. The assistant manager, Shawn/Stacy Camp, came to the front. I believe I heard Camp call the police too. I think Camp might have asked the cashier what happened. The cashier was telling me to stop detaining Brooks, but the store was closed and Brooks was resisting my arrest.

Anyway, I tried to gently restrain Brooks, but s/he began fighting back, screaming, "Take your hands off of me, take your hands off me." As an officer, I am under the obligation to enforce the law—even while off duty. At this point, I believed I had probable cause to arrest Brooks for trespassing and disorderly conduct. So, I took out my handcuffs and struggled to place them on him/her, as s/he fiercely tried to fight me off. Again, as a police officer, I was and am at

all times under the obligation to enforce the law. That means that, once I have probable cause to arrest a suspect for committing a crime, I must do everything in my power to carry out the arrest. If a suspect resists arrest, I have an obligation to use a reasonable amount of force against the suspect in order to make the arrest. So, carrying out my duty as a police officer, even though Brooks was violently resisting my attempt to handcuff him/her, I didn't let up.

I had Brooks' hands pinned behind his/her back, but s/he kept jerking from side to side trying to get free from my grip. Following police arrest procedure, I pushed Brooks against the closest stable object, which happened to be the conveyor belt in the checkout aisle, in order to keep Brooks from wrestling free. But Brooks continued to fight back. Brooks jerked backwards, off the conveyor belt, knocking me backwards. I lost my balance, but I still maintained my grip on Brooks' hands. We both went stumbling backwards and smashed into a glass case. After this, Brooks had stopped struggling and I was able to handcuff him/her and place him/her under arrest. At this point, my fellow police officers had arrived at the scene in response to the call to the police. I informed them of the situation. They arrested Brooks and transported Brooks to the station for processing.

Officer Milton/Michelle Lawrence

Officer Milton/Michelle Lawrence

Shawn/Stacy Camp

My name is Shawn/Stacy Camp, and I live at 1317 Wisconsin Avenue. I am the assistant manager at Shop-All. I work there every afternoon from 2 pm until I officially lock the store up for the night. I have been the assistant manager at Shop-All for the past 10 years.

On the night of March 15, 2005, around closing time, I was in my office at the back of the store, going over sales figures for the week. On the weeknights, I usually spend the majority of my time in the office. When I am needed to answer a customer complaint or take care of any other situations in the store, a cashier or floor representative will usually page me. However, toward the end of each night, things usually settle down and I use that time to tend to administrative issues in the office. I rely on Lawrence, my finest and most experienced security guard, to take care of closing matters in the store.

I interviewed Lawrence myself over a year ago when s/he applied for the job. Besides having an impressive academic record from Georgia City University, Lawrence had extraordinary recommendations from supervisors and also the Chief of Police at the Metro City Police Department. Lawrence had been working at the police force for four years when s/he applied for the position of evening security guard at Shop-All in order to make a little extra money. Because I had interviewed about eight other candidates already and Lawrence was the most qualified for the job by far, I offered Lawrence the job on the spot. And my intuitions about Lawrence proved to be true. Lawrence is and has always been the hardest worker I've ever known. Lawrence always shows up to work on time. S/he follows instructions precisely, carries out

his/her responsibilities with great effort and care, and gives 110% while on the job. I'm sure Lawrence developed this work ethic during in the early years on the police force.

I trained Lawrence for the job myself. My instructions were that each night at closing, s/he was to make a sweep of the aisles and make sure nobody was lingering in the store. I expressly instructed Lawrence to order anyone in the aisles at closing to immediately proceed to checkout. More specifically, I told Lawrence to be forceful in making this demand in order to ensure that the customers take it seriously. In the past, we had problems with teenagers lingering around at closing and shoplifting while the floor staff were busy with their clean-up duties and the security guard was making his aisle sweep. So, we established a strict policy mandating that all customers immediately proceed to checkout by the store's 10 pm. closing time.

Shop-All's general manager has new handbooks for all of our employees. These handbooks contain all of our policies. Lawrence was hired to work at Shop-All as a security guard. In that role, Lawrence must enforce the policies. Basically, these mean that the store should be empty at closing time. I know these policies very well because I was on the committee that helped to create them.

On the night of March 15, 2005, after finishing my review of the daily sales figures of the closed register lanes, I heard loud noises, left my office, and headed to the front of the store. It must have been a few minutes after 10 pm. I remember because I checked my watch just before. I could not imagine what the problem could be. I expected to find the store quiet and empty since we

were closed. Unfortunately, that wasn't the case. I could hear someone screaming as I walked towards the front of the store. A customer seemed to be in an argument with Lawrence. The customer was yelling vulgar profanities and seemed to be threatening Lawrence. As I ran to the front of the store, I heard the person yell, "Take your hands off of me. You don't know what I'm capable of. Help, help!"

Lawrence was struggling to restrain a very angry and very forceful customer. When I saw this, I ask the cashier what was going on. Derecha told me that s/he didn't know but heard Lawrence accuse the customer of trespassing and disorderly conduct. I immediately called the police. I later learned the customer was Brooks. Lawrence had Brooks' hands pinned behind his/her back, but Brooks was putting up a heck of a fight. I saw Lawrence push Brooks against the conveyor belt in order to keep Brooks from moving around. At this point, Brooks pushed backward off the conveyor belt and into Lawrence. Brooks did this so violently that Lawrence lost his/her balance. They both stumbled backwards and smashed into a glass case behind them. Luckily, Lawrence maintained a hold on Brooks and finally managed to place the cuffs on. Minutes later, the police arrived and took Brooks away.

I don't feel the least bit sorry for Brooks. Lawrence is our security guard. Brooks should have followed Lawrence's instructions and didn't. We have policies in place for customers like Brooks, and Lawrence was just doing his/her job according to our policies.

After the incident, I issued a written reprimand to Derecha. I had it placed in Derecha's personnel file. I wrote that Derecha violated Shop-All

policy by allowing Brooks to return to the line after getting the deodorant. If Derecha had really been on top of things, s/he would have made it clear to Brooks that Brooks couldn't go back into the store looking for a last item at closing time. Derecha never should have told Brooks what aisle to go to. Derecha should have known better.

Shawn/Stacy Camp

Shawn/Stacy Camp

Chief of Police Maria/Mark Rodriguez

My name is Maria/Mark Rodriguez, and I am Chief of Police for the Metro City Police Department. I have been working for the police department for about 15 years now. I studied criminal justice in undergrad at Georgia City University. After graduation, I decided to enter the police academy and become a police officer. I started off as a foot officer and then worked my way up to a patrol officer. About five years ago, I was promoted to Chief of Police. I was very excited; this was a big accomplishment in both my career and for the police force. About three years ago, after a rise in incidents in which citizens made claims of police brutality, the Mayor of Metro City approached me about the possible creation of a program to improve police-community relations. For me, this would largely involve more training for police. People have often focused on the police officer as being the bad person. But I am a staunch believer in the “nurture” side of nature vs. nurture, and the issue is that we do not “nurture” our police officers like we should.

I believe that in order for our police force to most effectively serve and protect us, we need to teach them about the proper ways of following police procedure. I believe that the men and women who serve as police officers are not only brave, but also inherently unselfish. They put themselves in the line of danger every day. However, just like you and me, they are human beings. They sometimes need guidance in order to best use their talents. Being police officers, they already know the basics of how to do things. They go through the police academy and are trained to become efficient police officers. However, it takes more than preliminary training to use this newfound power properly. I

find it extremely interesting, how in our society, we hand a group of people so much power, yet don't do enough to fully develop their skills for how to use it. I think this arises from our issues with intimacy and our inability to communicate how we feel and how we want others to act or react.

I helped create, as well as presently teach, the In-Service courses offered by the Metro City police department. These courses are required for all police officers who work the streets. The police department knows that their police officers are held to a higher standard than the rest of the population because of the fact that they are in possible positions of power. They want to make sure this power is not abused. The classes are geared toward teaching police officers how to follow proper police procedures correctly.

The three required courses we have are *Civil/Criminal Liability, Authority and Jurisdiction; Use of Force*; and *Evidence, Arrest, and Legal Update*. The first course, *Civil/Criminal Liability, Authority and Jurisdiction* focuses on the instruction in the areas of civil and criminal liability and how these issues affect police officers. The second course, *Use of Force*, is particularly important because it deals with instruction on the principles of justification for the use of force and deadly force by police officers in Metro City. This course also focuses on tactics, judgment, and restraint in various situations in order to limit the use of force to that which is necessary and reasonable. The third course, *Evidence, Arrest, and Legal Update*, deals with arrest procedures. The course offers an in-depth discussion of probable cause, the officer's authority to arrest with or without a warrant, and balancing the power of arrest with discretion and deference for state laws and the U.S. Constitution. The Legal

Update portion of this class makes sure that the police officers are constantly up-to-date with any changes in the law and recent court decisions. We also review the Criminal Code, the Rules of Criminal Procedure, as well as federal and state court decisions that affect law enforcement officers in Metro City.

We also offer an elective course called *Conflict Resolution for Police Officers*. This course deals with teaching officers skills to help them resolve internal and external, day-to-day, interpersonal and multi-party conflicts involving both citizens and other police officers.

The first three courses are mandatory, and Officer Lawrence has taken them all. In fact, Lawrence did quite well in the classes. Lawrence was alert, interested, and seemed genuinely concerned about the proper ways of dealing with others. Lawrence constantly would come up to me after class to ask questions about the different laws. Lawrence wanted to uphold them all. Lawrence also took the elective course, which is not mandatory, and did very well in that course as well. At the end of each course, we assess how the officers did through mini-tests. Officer Lawrence not only passed them all, but also was the top of the class in two of the classes. I recruited Officer Lawrence myself. We went to the same university. Lawrence was a great student and is a fine officer.

As far as the incident on March 15th goes, I believe Officer Lawrence behaved according to sound police practices. I spoke with Lawrence as well as a few other officers who arrived at the scene. Officer Lawrence explained that the customer was out of control and behaving wildly, and that the only thing Lawrence could do was try to subdue him/her. Upon speaking with the other

officers, they corroborated Officer Lawrence's statement by stating that once they arrived at the scene, the customer was still very upset and angry. In the *Evidence, Arrest, and Legal Update* class, the police officers are taught that they can arrest without a warrant if they have probable cause that the person is either going to commit a crime or is in the process of committing that crime. Officer Lawrence stated that the store was closed and that s/he asked the customer to leave. The customer remained and, therefore, was trespassing on private property. Officer Lawrence also had reason to suspect that the customer would become violent from both the tone of voice and physical demeanor the customer displayed in response to Lawrence's order. Officer Lawrence had probable cause to arrest the customer. When Lawrence attempted an arrest, the customer responded violently. I believe Officer Lawrence used the appropriate amount of force in order to try to subdue the customer, according to police procedure. In my opinion, Lawrence did not act outside the bounds of correct procedure. In my view, Lawrence should not be held liable in this lawsuit.

Additionally, we totally support the Metro City police officers who responded to the 911 call and took Brooks to the station. They did not witness the altercation. However, an officer on the scene gave them enough information. They followed Metro City police protocol. The police officers who booked Brooks at the station also followed standard police procedure.

Chief Rodriguez

Chief Maria/Mark Rodriguez

Statutes

Metro City Statutes

MC Code §22-302 ~ Trespass

A person commits trespass if such person enters any public or private building without lawful authority *or* remains in any public or private building and refuses to leave upon the reasonable demand of the lawful occupant or the person lawfully in charge of the building.

MC Code §22-321 ~ Disorderly Conduct

A person commits disorderly conduct if such person acts with intent to provoke a breach of peace or acts in a way that results in a breach of peace, such as: (1) annoying, disturbing, interfering with, obstructing, or being offensive to others; (2) congregating with others on a public street and refusing to move on when ordered by the police; (3) shouting or making a noise either outside or inside a building during the nighttime to the annoyance or disturbance of a considerable number of persons; (4) interfering with any person in any place by jostling or unnecessarily crowding the person; or (5) causing a disturbance in any railroad car, bus, or other public vehicle, by running through it, climbing through windows or upon the seats, or otherwise annoying passengers or employees.

[In Metro City, the common law tort offenses of battery, false arrest, and intentional infliction of emotional distress have been codified in the Metro City Civil Code.]

MC Civil Code §2211 ~ Battery

A person is liable for battery when he or she performs an intentional act that causes harmful or offensive bodily contact, without legal justification.

MC Civil Code §3299 ~ False Arrest

A person is liable for false arrest when he or she detains or restrains another, without consent, and without legal justification.

MC Civil Code §5500 ~ Intentional Infliction of Emotional Distress

A person is liable for intentional infliction of emotional distress when he or she intentionally or recklessly engages in extreme and outrageous conduct that intends to cause and causes severe emotional distress to another.

MC Civil Code §110 ~ Employers' Liability for Torts of Employees

An employer is liable under the common law doctrine of respondeat superior for the negligence or intentional torts of employees who are acting within the scope of their employment.

MC Civil Code §111 ~ Vicarious Liability of the State

Metro City may be sued and is vicariously liable, under the common law doctrine of respondeat superior, for the negligence or intentional torts of its officers who are acting within the scope of their employment.

MC Civil Code §4444 – Pain and Suffering Awards in Tort Actions

In actions for intentional torts, plaintiffs may be awarded for reasonable pain and suffering at the discretion of the finder of fact, based upon the facts of the case.

Case Law

Metro City Case Law

Metro City v. Lee, 161 Metro City Rept. 782 (1982).

Facts: Defendant, Adam Lee, was charged with criminal trespass under Metro City Criminal Code §22-302. Lee was standing in line in a grocery store when a security guard noticed that Lee had a pistol in his pocket. The security guard, an employee of the grocery store, consulted with the store manager and then asked Lee to leave the store. Lee replied that his female companion had left the check out line to get some hair rollers. According to Lee, he then told the security guard, "As soon as she gets back, I'll give her the grocery cart and the money to pay, and I'll go out the store." The security guard demanded that Lee leave immediately. Moments later, Lee's female companion arrived. He gave her money for the groceries, and he left the store. The security guard later swore out a warrant against Lee, charging him with criminal trespass. At trial, Lee was found guilty on the ground that he did not leave immediately, and he appealed.

Holding: The appellate court reversed lower court's verdict, holding that the trial court erred in applying §22-302. To convict defendant for criminal trespass in this case, the government must show that the security guard had the rightful authority to order defendant to leave and that the defendant did not do so within a reasonable amount of time. "There is no doubt under the facts of the case that the security guard possessed the rightful authority to order the defendant to leave the premises. The crucial question is whether the defendant illegally remained upon the premises after receiving notice to depart. The trespass statute requires that a person having received a 'reasonable demand' to depart must leave the premises. The Court believes a 'reasonable demand' implies departing *within a reasonable time*. On the basis of the testimony and facts presented in this case, the defendant could be found to leave the premises within a reasonable time after being told to leave." A new trial was granted to the defendant.

Metro City v. Brown, 20 Metro City Rept. 1980 (1999).

Facts: Defendant, Raymond Brown, was charged with disorderly conduct under Metro City Criminal Code §22-321. Brown and a friend had gone out to a dance club one evening. Afterwards, they decided to get something to eat and drove to a Wendy's fast-food restaurant. After they picked up their food at the counter and sat down to consume it, Brown walked over to two women seated at another table and tried to strike up a conversation with them. Annoyed by Brown, one of the women

complained to Officer John Hayes, a Metropolitan Police officer who was off duty but in uniform and was working part-time as a security guard at the restaurant. After identifying himself, Officer Hayes told Brown to leave the restaurant. However, Brown replied that he had not done anything wrong and that he would leave when he was finished eating. Officer Hayes again told Brown to leave. Brown began yelling loudly that he wasn't going to leave. Hayes then attempted to detain Brown for trespass, and a struggle followed. Within minutes other Metropolitan Police officers arrived on the scene. Brown was taken to the police station and charged with disorderly conduct. At trial, Brown was found guilty, and he appealed.

Holding: The appellate court upheld the trial court's conviction. "The law is well settled that if the original arrest is lawful, a defendant's resistance to the arrest may lead to a conviction of disorderly conduct. However, reasonable means such as raising one's voice in protest and physical opposition may be used to resist an illegal arrest. In this case, the undisputed evidence shows that Officer Hayes had ordered the defendant out of Wendy's after a patron complained that he was annoying her, and the defendant did not comply with Officer Hayes' order to leave. Hayes clearly had probable cause to detain Brown for trespass at that point. Brown's later vocal protest and resistance could be found to be disorderly conduct."

Jonah v. Metro City, 839 Metro City Rept. 229 (1999).

"To defend against civil suit for battery, a police officer must prove that he used reasonable force in making the arrest. If the officer does not use force beyond that which the officer reasonably believes is necessary, he has an affirmative defense against the battery claim. However, the defense ends at the point where excessive force begins."

Smith v. Metro City, 22 Trial Court Reports 102 (2001).

Facts: Plaintiff John S. Smith brought an action for battery against Officer David Petty and the Metro City Police Department. On September 8, 1999, the plaintiff and another man were involved in an incident that led to the arrest of plaintiff. The incident began with a fight between the plaintiff and another man in front of a residential building at 456 Chamberlin Street, SE. The police were called to break up the fight. According to the record, the defendant, Officer David Petty, applied a chokehold to plaintiff's throat to restrain him. Then, the defendant raised his arm and fractured plaintiff's jaw bilaterally. After the plaintiff began to bleed from the

mouth, defendant placed handcuffs on him and threw him on the ground face down. Plaintiff sued, alleging, among other things, battery.

Holding: The court found defendants liable for battery. First, the court ruled that an officer has a qualified privilege to use reasonable force to make an arrest, provided that the means used are not in excess of those which the police officer reasonably believed were necessary. Next, the court looked at the factors to be considered in making a determination of whether the force used was reasonable under the circumstances: (1) the known character of the arrestee; (2) the risks and dangers faced by the officer; (3) the nature of the offense or behavior involved; (4) the chance of escape if the particular means are not employed; (5) the existence of alternative methods of arrest or subduing the arrestee; and (6) the physical size, strength and weaponry of the officers as compared to that of the arrestee. Weighing all these factors, the court concluded that the defendant used excessive force when making the arrest. Thus, he was found liable for battery.

Alton v. Metro City, 740 Metro City Rept. 43 (2000).

“The test of legal justification, in the context of false arrest, is judged by the principles applicable to the law of arrest. Therefore, where the basis of a false arrest action is an arrest by a police officer, the liability of the police officer for false arrest will ordinarily depend upon whether or not the officer acted within his legal authority to arrest. To avoid liability for civil false arrest, a police officer must prove one of the following conditions: (1) that he or she had probable cause to make the arrest or (2) that he or she believed in good faith that the arrest was lawful and that this belief was reasonable.”

Brown v Metro City, 23 Trial Court Reports 58 (2002).

Facts: Plaintiff Raymond Brown brought an action against Officer John Hayes and the Metro City Police Department. The plaintiff and a friend were at a fast-food restaurant. After plaintiff tried to strike up a conversation with two women at a nearby table, one complained to the security guard, Officer John Hayes. Hayes was a Metro City police officer who was off duty but in uniform and was working part-time as a security guard at the restaurant. Officer Hayes told the plaintiff to leave the restaurant. Brown refused, and an altercation followed. According to the record, Hayes then grabbed Brown by the arms, pulled his arms behind his back, and then

slammed the plaintiff face down on the ground, shouting, "I will teach you a lesson you will never forget." Brown sustained physical and emotional injuries.

Holding: The court found the defendant liable for intentional infliction of emotional distress. To find intentional infliction of emotional distress, the conduct must be so outrageous in character and so extreme in degree as to go beyond the bounds of decency. Such conduct would arouse resentment in the average member of the community and cause him or her to exclaim "Outrageous!" The court held that because the plaintiff was much shorter and more frail than the arresting officer, because the plaintiff was not carrying any weapons, and because he did not make any sort of physical advances or resistance, the officer's conduct was so outrageous and so extreme in degree as to go beyond the bounds of decency. The court also found that plaintiff's conviction for disorderly conduct arising from the same event was no defense to plaintiff's claim of intentional and excessive infliction of punishment by the defendants.

U.S. Supreme Court Case Law

Beck v. Ohio, 379 U.S. 89, 91 (1964).

"A police officer has probable cause to arrest a person if he or she has enough trustworthy information at the moment of arrest that would lead a reasonable person to believe that the suspect has committed or is committing an offense."

Pieces of Evidence

Metro City Police Report

Part I: Classification of Event		
Type of Report: Offense <u> X </u> Incident <u> </u>		
Date and Time of Event:	March 15, 2005	
	Start Time: 22:15	End Time: 22:30
District 1	Sector 1	
Event Location Address: 546 North Decatur Street, SE, Metro City 31002		
Event No.1: Trespass	Event No. 2: Disorderly Conduct	
Report Received by: Radio	Security System: Closed Circuit Video	Location Type: Retail Store
Forced Entry: No		

Part II: Suspect Information	
Suspect 1: Kim/Kevin Brooks	DOB: 1/20/1987
Age: 18	Home Address: 3454 Gardenia Ave., SE, Metro City, 31001
Height: 5'6	Home Phone: 787-313-0290
Weight: 130 lbs.	Weapons used in offense: None

Part III: Statement of Facts/Officer Narrative	
We received a call from the dispatcher at 10:10 pm that an altercation was taking place at the Shop-All store located at 546 North Decatur Street. At the time of the call, the reported perpetrator was allegedly trespassing and engaging in disorderly conduct. Officer Lawrence was reported to be on the scene. Lawrence was off duty and working in the capacity of a security guard at the local Shop-All. Pursuant to Metro City Police Department protocol, s/he was attempting to make an off-duty arrest upon probable cause of trespass and disorderly conduct. The reported perpetrator allegedly attempted to resist arrest, and a struggle b/w the perpetrator and Office Lawrence ensued. Upon our arrival, Officer Lawrence had successfully restrained and handcuffed the perpetrator. We placed the perpetrator in custody and transported her to District 1 for processing.	
Officers at the Scene: Officer Hughes Langston Officer Melanie Rogers Officer Bradley Jacobs Officer Jessie Smith Officer Kevin Dleish Officer Doug Tedeschi	
Report Number: 756921-450	





INDIVIDUAL CHARGES

www.smobility.com

Customer	Account Number	Invoice Period	Invoice Date	Page
K BROOKS	20061212-05	Feb. 28-Mar. 28	Mar. 28	4 of 4

Individual Charges for **KIM/KEVIN BROOKS** (continued)
1-555-555-5555
kbrooks05@smobility.com

Voice Call Detail

Call no.	Date	Time	Phone number	Call Destination	Rate/Type	Minutes Used	Airtime Charges	I.D./Additional Charges	Total Charges
240	3/15	9:45 AM	212-333-4588	New York, N.Y.		12.0	included	0.00	0.00
241	3/15	12:06 PM	407-665-4862	Orlando, Florida		22.0	included	0.00	0.00
242	3/15	1:15 PM	212-789-6506	New York, N.Y.		5.0	included	0.00	0.00
243	3/15	10:06 PM	911	Metro City		4.0	0.00	0.00	0.00
244	3/16	4:12 AM	787-313-0290	Metro City		6.0	included	0.00	0.00

Official Transcript
911 Emergency Telephone Call
Recorded on 3/15/05 - Beginning 22:06:10 hours
Transcribed 3/20/05

Operator: Hello, 911, What is your emergency?

Caller: Hello? Yes, I would like to report someone. A security officer at Shop-All is threatening me, and I'm afraid he is going to do something to me (slight pause)...well, I...(loud rustling)...OWWW!!

Operator: Yes, I can get you the police. What is your name and where are you?

Caller: inaudible

Miss, I don't want to have to do this, but if I have to, I will.

Operator: Hello?

(rustling, shuffling) Get off of me! What are you doing?? Get...off...ouch!

Operator: Is everything ok?

(bang, bang) inaudible

Look, you are making this harder for both of us. Stop fighting! Get down...

Take your hands off of me, take your hand off of me! Help, Help! Oww, you are hurting me...get off!

(Rustling, shuffling continues...)

Operator: Ok, that's enough, I'm sending the police over there now!

inaudible

(sound of thump)

(click)

Call Terminated 22:10:02 hours

Metro City Hospital

Emergency Room Intake Form

Patient's Name: <i>Kim/Kevin Brooks</i>					
Age: <i>19</i>	Birth date: <i>01/20/87</i>	Gender: <i>F/M</i>	Weight: <i>130</i>	Height: <i>5'6"</i>	Date & Time of Admittance: <i>March 16, 2005/4:30 am</i>
Insurance Information: <i>M.C. State Farm Insurers, Policy # 860021 (through Alycia Brooks, mother)</i>					
Emergency Contact Information: <i>Alycia Brooks (Mother), 787-313-0290</i> <i>TaKeisha Roach (Aunt), 787-314-0239</i>					
Name of Primary Care Physician: <i>Dr. R. Richards</i>					
Chief Complaint: <i>External bleeding from cuts and bruises (legs, arms, and face), extreme discomfort in wrists, left shoulder, and right knee</i>					
Brief History of Current Illness: <i>Patient says injuries are a result of assault by security guard</i>					
Vital Signs: <i>All normal, except slightly elevated blood pressure</i>					
Medications Currently Being Taken: <i>Allergy medication</i>					
In-Depth History of Present Illness: <i>Cuts and bruises are mostly superficial. However, there is serious internal bruising around left wrist area, which is most likely a left wrist contusion. Shoulders and knees also show signs of internal bruising with possible muscular strains to the left shoulder and the right knee. Wrist has been placed in a splint for comfort. Apply ice to wrist and knee. Take pain meds as recommended. Return to ER if numbness/tingling to arms/legs or worsening pain. Patient should visit her primary care physician after a week's time to follow-up on the initial diagnosis and ensure that healing is occurring along a normal timeline and that no other internal injuries present themselves.</i>					
Past Medical History: <i>Assorted environmental allergies</i> <i>Asthma</i> <i>Susceptibility to bronchitis</i>					
Past Surgical History: <i>Tonsils removed – 7/13/93</i>					
Family History of Diseases: <i>Mother has high blood pressure</i> <i>Father's side has history of breast cancer</i>					
Social History:					
Occupation:		<i>High School Student</i>			
Residence:		<i>3454 Gardenia Ave, SE, Metro City 31001</i>			
Occupants of Residence:		<i>Mother/Father</i>			
Marital Status:		<i>Single</i>			
Children:		<i>None</i>			
Cigarette/Alcohol/Drug Use:		<i>None</i>			
Exercise:		<i>Dances on dance squad</i>			

**METRO CITY POLICE DEPARTMENT
PERSONNEL RECORD FORM**

Name Milton/Michelle Lawrence		Badge No. 639-109
Div One-One	Rank Officer (patrol)	Total Yrs of Service 5
DOB 06/12/68	SSN 999-99-9999	
Address 2727 29th Street NW, Metro City, 31003		
Phone Number (444) 444-4444		Next of Kin & Contact Info C.M.Lawrence (wife/husband) Home # (444) 444-4444 Work # (444) 222-2222

PREVIOUS DUTIES

Div	Rank	Dates of Service
Three-One	Officer (foot)	Aug 2000-June 2002
Two-Four	Officer (patrol)	June 2002-March 2005

PERFORMANCE TRAITS (scale of 1-5, 1 = highest)

Date of Eval	Professionalism	Reliability	Compliance with Policies & Standards	Personal Behavior	Leadership	Overall Rating
9/2000	1	2	2	2	3	2
6/2001	2	1	2	2	2	2
7/2002	1	2	2	2	3	2
8/2003	2	2	2	2	2	2
8/2004	2	1	2	1	2	2

AWARDS and COMMENDATIONS

Date	Description
7/2001	Outstanding Relationship with Community
3/2003	Recognition for Investigative Techniques
9/2004	Recognition for Work with Community Educational Initiatives

COMPLAINTS & DISCIPLINARY ACTION	
Date	Description
2/2001	Civilian complaint about actions taken against husband during response to domestic violence dispute. No disciplinary action taken.
5/2002	Civilian complaint by arrestee (suspected pickpocket and mugger) about force used against him during apprehension. Warning, but no disciplinary action taken.
COMMENTS	

Excerpts from Shop-All Superstore 2004-2005 Cashier Handbook

Customer Service

Article 2. All cashiers are expected to ensure Shop-All customers get the best service possible. Our customers are our business.

Article 2, section 3. All Shop-All customers must be welcomed by friendly cashiers.

Article 2, section 3. All Shop-All customers are to be treated with respect.

Article 2, section 6. All Shop-All customers are to be treated fairly.

At the Register

Article 3, section 5. You must give each customer exact change and count it out to them to avoid mistakes.

Article 3, section 7. You must give each customer a receipt with his or her purchase.

Customer Returns

Article 4, section 9. All returns are to be approved by Shop-All assistant managers.

Article 4, section 10. Cashiers will be personally liable for all returns not approved by Shop-All assistant managers.

Store Closing

Article 7, section 4. You must not allow any customers into the store past closing time (please confirm your store location closing time with your store's general manager)

Article 7, section 5. You must ring up all customers by closing time.

Article 7, section 6. You may not allow customers to return to the aisle after the store is closed.

Article 7, section 7. At closing all customers must be in line at the register or leaving the store.

Excerpts from Shop-All Superstore 2004-2005 Security Guard Handbook

Customer Service

Article 2. All security guards are expected to ensure Shop-All customers get the best service possible. Our customers are our business.

Article 2, section 3. All Shop-All customers must be welcomed by friendly security guards.

Article 2, section 3. All Shop-All customers are to be treated with respect by security guards.

Article 2, section 6. All Shop-All customers are to be treated fairly by security guards.

Store Closing

Article 7, section 4. Security guards must not allow any customers into the store past closing time (please confirm your store location closing time with your store's general manager)

Article 7, section 5. Security guards must make sure all customers are out of the aisles when the store is closed.

Article 7, section 6. At closing all customers must be in line at the register or leaving the store.

Additional Evidence

Excessive Police Force Hits the Metro City

By Syng Carroll

Residents of Metro City are incensed over another incident involving excessive use of force by an off duty police officer who was working as a security guard at a local Shop-All Store.

Yesterday evening, an honor student who attends Tilden High School, whose name was unknown at press time, was involved in an altercation with Officer Milton Lawrence. At the end of the encounter, the student was left with a sprained wrist and strains to the right knee and left shoulder.

Police officials said that the student's injuries were a result of the student's own actions. The student allegedly resisted arrest and fought back as Officer Lawrence tried to handcuff the student. Officer Lawrence claims that s/he then tried to subdue the student, but the student further resisted, resulting in the reported injuries. Officials are quick to quote statistics dealing with arrest complied by the Police Department. In the cases when one who is being arrested does not resist, no injuries have been reported, according to the Department.

One witness to the incident has a slightly different account of what happened that evening. A local business man, who has asked that his name not be used, said that he witnessed the student being "man-handled" by the police officer. He says that, although he did not witness

what led up to the altercation, he saw the student being "thrown around". He also stated that the student was "crying hysterically and yelling for help."

Another customer at Shop-All that evening stated that "it was a shame how that officer was picking on that girl/boy, and it's an even bigger shame that physical violence was involved."

Unfortunately, these customers could not hear what was being said during the altercation because they were on their way out of the store. They witnessed the event through the glass door after exiting the first set of doors to leave the store.

Community leader, Sophia Grant, called on the Metro City Police Department to "carefully and objectively" investigate the incident, as well as to re-examine police policies "in light of the current problems with the community, particularly youth."

OFF DUTY POLICE OFFICER GETS BAD RAP

By Alice Jenkins
Fairness Today Staff Writer
Friday, March 17, 2005 A1

Officer Milton Lawrence, the officer involved in the incident involving a Tilden High School student, remains on administrative leave pending the outcome of the Metro City Police Department (MCPD). The student is pressing charges against Officer Lawrence, claiming the officer abused his/her power and falsely arrested him/her.

Recently, the MCPD and its officers have been involved in a number of well-publicized citizen-officer encounters where both citizens and officers have suffered injuries. In none of these incidents have the officers been found to have acted inappropriately or used excessive force. Nevertheless, local media and community activists have been quick to judge the actions of the officer in this most recent incident.

Both the events leading up to the incident and the incident itself are unclear. Those who witnessed the event have given varying accounts to the press. The officer and the student have completely different versions of the incident as well. There is intense community pressure on the MCPD to act as quickly as possible, but some in the Department fear that this will impede the thoroughness of the investigation.

Despite the questions regarding the incident, few facts are known: In response to loitering customers and the cost of keeping the store open past

closing time, the manager implemented a policy geared toward getting customers out of the store by the closing time; Officer Lawrence, who was acting in the capacity of a security guard on the evening of the incident, was informed by the manager to make sure all customers were out of the Shop-All store by closing time; the student involved in the incident was inside the store past closing time and in the aisle when the officer approached him/her.

The Department has repeatedly claimed that community advocates have been quick to jump to conclusions. "It's easy to want to pin the blame on the cops when there's some kind of altercation during an arrest, but it's never that easy," said Sergeant Shane McDougal. "Using force or even the threat of force against an officer is wholly unacceptable, and now, because of this event, we have one good officer behind a desk rather than out on the street. Do people really feel that much safer now?"

Mock Trial
Tournament Rules

2006 DISTRICT OF COLUMBIA MOCK TRIAL TOURNAMENT RULES

The annual Mock Trial Tournament is governed by the rules set forth below. These rules are designed to ensure excellence in presentation and fairness in judging all trials.

TEAM PRESENTATIONS

1. The official mock trial materials, consisting of the Statement of Facts, Witness Statements, Relevant Statutes and Case Law, and Pieces of Evidence, comprise the sole source of information for testimony. The Stipulated Facts and any additional stipulations may not be disputed at trial.
2. Each witness is bound by the facts in the given witness statement. All participants agree that the witness statements are signed and sworn affidavits. Witness Statements may not be introduced as evidence, but may be used for impeachment.

Fair additions which (a) are consistent with facts contained in the witness affidavits and (b) do not materially give an advantage to the testifying party are permitted. If a witness is asked a question on cross-examination which is not dealt with in the witness's statement, the witness may invent an answer favorable to that witness's position.

Students may read other cases, materials, or articles in preparation for the mock trial. However, they may only cite the materials given, and they may only introduce into evidence those documents given in the official mock trial packet.

3. If a witness testifies in contradiction of a fact in the witness statement during direct examination, there is no objection for "violating the rules of the mock trial." The opposition must show the contradiction on cross-examination through correct use of the affidavit for impeachment. If a witness testifies in contradiction of a fact on cross-examination, the cross examining attorney should show the contradiction through impeachment also. This procedure is spelled out in the Simplified Rules of Evidence.
4. If on direct examination witness invents an answer that is likely to affect the outcome of the trial, the opposition should show this on cross-examination through correct use of the affidavit for impeachment. This procedure is spelled out in the Simplified Rules of Evidence. The scorers should consider such inventions of facts in scoring the witness' presentation.
5. Witnesses are not permitted to use notes in testifying during the trial.
6. All participants are expected to display proper courtroom decorum and collegial sportsmanlike conduct. The decisions of the judges with regard to rules challenges and all other decisions are final.

7. The trial proceedings are governed by the Simplified Rules of Evidence. Other more complex rules may not be raised in the trial.
8. During the actual trial, teachers, attorneys, other coaches, affiliated non-participating team members, parents and all other observers may not talk to, signal, or otherwise communicate with or coach their teams. Team members may communicate with each other during the trial. Instructors from opposing teams are advised to sit next to one another, if possible, and be reasonable. The purpose of this rule is to prevent last minute coaching; it is not intended as a device to disqualify an opposing team.
9. Neither team may introduce surprise witnesses nor call witnesses from the other side. All witnesses (three for each side) must take the stand, in whatever order or sequence determined by the party calling them.
10. Witnesses will not be excluded from the courtroom during the trial.
11. All teams in the tournament must consist of from three to eight attorneys, and three witnesses. Exceptions may be made by the D.C. Street Law Clinic after consultation.
12. Only students registered in their high school for the Street Law class as of February 22, 2004 will be eligible to participate in the Mock Trial Tournament unless otherwise approved by the Director.
13. Teams are expected to be present at the Superior Court for the District of Columbia by 5:30 p.m. the days of the trials. Trials will begin at 6 p.m.
14. The starting time of any trial will not be delayed for longer than 15 minutes. Incomplete teams will have to begin without their other members, or with alternates.

JUDGING

1. Presiding judges for the mock trials may include Judges and Commissioners of the District of Columbia, law school faculty, members of the D.C. Bar, other attorneys, or others approved by the Director.
2. All judges receive the Guidelines for Judges, Judge's Score Sheet, the Simplified Rules of Evidence, and the Mock Trial Packet.
3. Presiding judges are asked to make a legal decision on the merits of the case, but this does not affect a team's score. The decision on team scores is made by a scoring panel, consisting of two or more scorers selected by the Street Law Staff and, in some instances, the presiding judge. The criteria for scoring are discussed in the Guidelines for Scorers and the Score Sheet.
4. All decisions of the judges are final.

*Simplified
Rules of Evidence*

DISTRICT OF COLUMBIA 2006 MOCK TRIAL

Simplified Rules of Evidence

To assure each side a fair trial, certain rules have been developed to govern the types of evidence that may be introduced, as well as the manner in which evidence may be presented. These rules are called the "rules of evidence." The attorneys and the judge are responsible for enforcing these rules. Before the judge can apply a rule of evidence, an attorney must ask the judge to do so. Attorneys do this by making "objections" to the evidence or procedure employed by the opposing side. When an objection is raised, the attorney who asked the question that is being challenged will usually be asked by the judge why the question was not in violation of the rules of evidence.

The rules of evidence used in real trials can be very complicated. A few of the most important rules of evidence have been adapted for mock trial purposes, and these are presented below.

Rule 1. Leading Questions:

A "leading" question is one that suggests the answer desired by the questioner, usually by stating some facts not previously discussed and then asking the witness to give a yes or no answer.

Example: "So, Mr. Smith, you took Ms. Jones to a movie that night, didn't you?"

Leading questions may not be asked on direct or redirect examination. Leading questions may be used on cross-examination.

Objection: "Objection, Your Honor, counsel is leading the witness."

Possible Response: "Your Honor, leading is permissible on cross-examination," or "I'll rephrase the question." For example, the question can be rephrased: "Mr. Smith, where did you go that night? With whom did you go to the movies?" (This would not suggest the answer the attorney desires.)

Rule 2. Narration:

Narration occurs when the witness provides more information than the question called for.

Example: Question - "What did you do when you reached the front door of the house?"
Witness - "I opened the door and walked into the kitchen. I was afraid that he was in the house -- you know, he had been acting quite strangely the day before."

Witnesses' answers must respond to the questions. A narrative answer is objectionable.

Objection: "Objection, Your Honor, the witness is narrating."

Response: "Your Honor, the witness is telling us a complete sequence of events."

Rule 3. Relevance:

Questions and answers must relate to the subject matter of the case; this is called "relevance." Questions or answers that do not relate to the case are "irrelevant."

Example: (In a traffic accident case) "Mrs. Smith, how many times have you been married?"

Irrelevant questions or answers are objectionable.

Objection: "Your Honor, this question is irrelevant to this case."

Response: "Your Honor, this series of questions will show that Mrs. Smith's first husband was killed in an auto accident, and this fact has increased her mental suffering in this case."

Rule 4. Hearsay:

"Hearsay" is something the witness has heard someone say outside the courtroom. Also, any written statement made outside the courtroom is hearsay.

Example: "Harry told me that he was going to visit Mr. Brown."

Hearsay evidence is objectionable. However, there are two exceptions to the hearsay rule for purposes of the mock trial. If an exception applies, the court will allow hearsay evidence to be introduced. **Exception: In a mock trial, hearsay evidence is allowed when the witness is repeating a statement made directly to the witness by one of the witnesses in the case. Hearsay is also allowed if one of the witnesses is repeating a statement made by an individual who is no longer alive.**

Note that this exception to the hearsay rule does not extend to witness testimony about what another person heard a witness say. This is "double hearsay."

Example: Mary, the plaintiff, told me that Harry, the defendant was drunk the night of the accident.

Objection: "Objection, Your Honor, this is double hearsay."

Response: "Your Honor, since Harry is the defendant, the witness can testify to a statement he heard Harry make."

For mock trials, other exceptions to the hearsay rule are not used.

Rule 5. Firsthand Knowledge:

Witnesses must have directly seen, heard, or experienced whatever it is they are testifying about. **A lack of firsthand knowledge is objectionable.**

Example: "I saw Harry drink two beers that night. I know Harry well enough to know that two beers usually make him drunk, and he seemed drunk that night, too."

Objection: "Your Honor, the witness has no firsthand knowledge of Harry's condition that night."

Response: "The witness is just generally describing her usual and actual experience with Harry."

Rule 6. Opinions:

Unless a witness is qualified as an expert in the appropriate field, such as medicine or ballistics, the witness may not give an opinion about matters relating to that field. **Opinions are objectionable unless given by an expert qualified in the appropriate field.**

- Example:** (Said by a witness who is not a doctor) "The doctor put my cast on wrong. That's why I have a limp now."
Objection: "Objection, Your Honor, the witness is giving an opinion."
Response: "Your Honor, the witness may answer the question because ordinary persons can judge whether a cast was put on correctly."
Ruling: A judge will likely sustain this objection because it may not be within an ordinary person's knowledge to know whether an incorrectly placed cast will cause a limp.

As an exception to this rule, a lay witness may give an opinion based on common experience.

- Example:** "It looked to me like Harry was drunk that night. I've seen him drunk and have seen other drunks before."
Objection: "Objection, Your Honor, the witness is giving an opinion."
Response: "Your Honor, the witness may answer the question because ordinary persons may judge whether or not a person appeared drunk based on the witness' experience."

Rule 7. Opinions on the Ultimate Issue:

Witnesses, including experts, cannot give opinions on the ultimate issue of the case: the guilt or innocence of the defendant or the liability of the parties. These are matters for the trier of fact to decide.

- Example:** "I believe that Mr. Smith was negligent in driving too fast in this case."

Opinions on the ultimate issue in a case are objectionable.

- Objection:** "Your Honor, the witness is giving an opinion on the ultimate issue – the negligence of Mr. Smith."
Response: "The witness is commenting that the driver was speeding. This is not the ultimate issue in this case."

Rule 8. Additional Rules of Evidence:

1. Objections during the testimony of a witness must be made only by the direct examining and cross-examining attorneys for that witness.
2. Cross-examination is not limited to the scope of direct questioning.
3. A short redirect examination, limited to no more than two questions, will be allowed following cross-examination, if an attorney desires. Questions on redirection are limited to the scope of the cross-examination.

4. If an attorney (on direct or cross-examination) repeatedly asks a witness to discuss the exact same matter, opposing counsel may object to the question as being “asked and answered.” It is in the court’s interest to have the trial move along in a timely manner.
5. Witnesses must be treated with respect by opposing counsel. If an attorney continuously, and for no valid trial or evidentiary purpose, takes a disrespectful tone with the witness, the opposing counsel may object that the questioning attorney is “badgering the witness.”

Rule 9. Special Procedures:

Procedure 1. Introduction of Documents or Physical Evidence:

Sometimes the parties wish to offer as evidence letters, affidavits, contracts, or other documents, or even physical evidence such as a murder weapon, broken consumer goods, etc. Special procedures must be followed before these items can be used in trial.

Step 1: Introducing the Item for Identification

- a. An attorney says to the judge, "Your Honor, I wish to have this (letter, document, item) marked for identification as (Plaintiff's Exhibit A, Defense Exhibit 1, etc.)."
- b. The attorney takes the item to the clerk, who marks it appropriately.
- c. The attorney shows the item to the opposing counsel.
- d. The attorney shows the item to the witness and says, "Do you recognize this item marked as Plaintiff's Exhibit A?"
 Witness: "Yes."
 Attorney: "Can you please identify this item?"
 Witness: "This is a letter I wrote to John Doe on September 1." (Or witness gives other appropriate identification.)
- e. The attorney may then proceed to ask the witness questions about the document or item.

Step 2. Moving the Document or Item into Evidence.

If the attorney wishes the judge or jury to consider the document or item itself as part of the evidence and not just as testimony about it, the attorney must ask to move the item into evidence at the end of the witness examination. The attorney proceeds as follows:

- a. The attorney says, "Your Honor, I offer this (document/item) into evidence as Plaintiff's Exhibit A, and ask that the court so admit it."
- b. Opposing counsel may look at the evidence and make objections at this time.
- c. The judge rules on whether the item may be admitted into evidence.

Procedure 2. Impeachment

On cross-examination, an attorney wants to show that the witness should not be believed. This is best accomplished through a process called "impeachment," which may use one of the following tactics: (1) asking questions about prior conduct of the witness that makes the witness' truthfulness doubtful (e.g., "Isn't it true that you once lost a job because you falsified expense reports?"); (2) asking about evidence of certain types of criminal convictions (e.g., "You were convicted of shoplifting, weren't you?"); or (3) showing that the witness has contradicted a prior statement, particularly one made by the witness in an affidavit. Witness statements in the Mock Trials Materials are considered to be affidavits.

In order to impeach the witness by comparing information in the affidavit to the witness' testimony, attorneys should use this procedure:

Step 1: Repeat the statement the witness made on direct or cross-examination that contradicts the affidavit.

Example: "Now, Mrs. Burke, on direct examination you testified that you were out of town on the night in question, didn't you?" (Witness responds, "Yes.")

Step 2: Introduce the affidavit for identification, using the procedure described in Procedure 1.

Step 3: Ask the witness to read from his or her affidavit the part that contradicts the statement made on direct examination.

Example: "All right, Mrs. Burke, will you read paragraph three?" (Witness reads, "Harry and I decided to stay in town and go to the theater.")

Step 4: Dramatize the conflict in the statements. (Remember, the point of this line of questioning is to demonstrate the contradiction in the statements, not to determine whether Mrs. Burke was in town or out of town.)

Example: "So, Mrs. Burke, you testified that you were out of town on the night in question, didn't you?" "Yes." "Yet, in your affidavit you said you were in town, didn't you?" "Yes."

Note: For an impeachment for a contradictory prior statement, the point is that because the witness has made two contradictory statements about a matter, the witness may not be believable on that matter. The contradiction also may cast doubt on the witness' truthfulness, generally. Impeachment does NOT disprove a statement; it only casts doubt on either statement.

Procedure 3. Qualifying an Expert

Only a witness who is qualified as an expert may give an opinion as to scientific, technical, or other specialized knowledge in the area of his/her expertise. (Note: A lay witness may give an opinion about something related to one's common experience

(see Rule 6) Experts **cannot** give opinions on the **ultimate issue** of the case.

Before an expert gives his/her expert opinion on a matter, the lawyer must first **qualify** the expert. There are two steps to qualify an expert. First, the lawyer must **lay a foundation** that shows the expert is qualified to testify on issues related to that expert's field of expertise. To lay a foundation, the lawyer asks the expert to describe factors such as schooling, professional training, work experience and books he/she has written that make a person an expert regarding a particular field. Second, once the witness has testified about his/her qualifications, the lawyer **asks the judge to qualify the witness as an expert in a particular field**.

Example: The wife of Harold Hart is suing Dr. Smith and General Hospital for malpractice. She claims they did not treat Mr. Hart for an obvious heart attack when he was brought to the hospital. Mrs. Hart's lawyer is examining his expert witness, Dr. Jones:

Q: Dr. Jones, what is your occupation?

A: I am a heart surgeon. I am Chief of Staff at the Howard University Medical Center.

Q: What medical school did you attend?

A: I graduated from Georgetown Medical School in 1978.

Q: Where did you do your internship?

A: I did a two-year internship in cardiology at John Hopkins University from 1978-1980.

Q: Did you afterwards specialize in any particular field of medicine?
A: Yes, I specialized in heart attack treatment and heart surgery.
Q: Have you published any articles or books?
A: I wrote a chapter in a medical text on heart surgery procedures after heart attacks.
Q: Describe the chapter.
A: I set out the steps for identifying heart attacks and doing open-heart surgery.
Q: What professional licenses do you have?
A: I am certified by the D.C. Board of Medical Examiners to practice medicine in D.C.

Attorney #1: Your Honor, I ask that Dr. Jones be qualified as an expert in the field of medicine.
Judge: Any objection?
Attorney #2: We object. No foundation has been laid regarding Dr. Jones's ability to render an opinion as to all fields of medicine.
Judge: Objection sustained. Dr. Jones's expertise seems to be limited to certain areas of medicine.
Attorney #1: Thank you, your Honor. We ask that Dr. Jones be qualified as an expert in the field of heart surgery.
Judge: Any objections?
Attorney #2: No, your Honor.
Judge: Let the record reflect that Dr. Jones is qualified to testify as an expert in the field of heart surgery.

Once qualified, an expert may give opinions relating only to the expert's area of expertise. That is, an expert cannot give an opinion in an area outside his/her expertise.

Example: (Dr. Jones has been qualified as an expert on heart surgery.)

Q: Dr. Jones, what is your opinion as to Mr. Hart's cause of death?
A: The patient suffered a massive heart attack caused by clogged arteries.
Q: Dr. Jones, in your opinion, is it true as the defense contends that the patient also suffering from a rare lung disease transmitted through contact with the North American mongoose as the defense contends?

Objection: The witness is testifying outside her area of expertise.
Judge: Sustained. Please confine your opinion to matters related to care and treatment of the heart.

Q: Dr. Jones, in your opinion, how should the patient's doctors have treated him?
A: They should have recognized that the patient was having a heart attack based on his chest pains, purple face, difficulty breathing, and numbness in his left arm. They should have given him the proper medication and treated him in the emergency room right away.
Q: Who was at fault in this matter?
A: Dr. Smith and General Hospital were definitely negligent.

Objection: The witness is testifying to the ultimate issue of the case, which is whether Dr. Smith and General Hospital are liable for malpractice. That is a question of fact for the judge (or jury, when the case is tried before a jury) to decide.
Judge: Sustained.